

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

ROBERT LESLIE CALDWELL §
v. § CIVIL ACTION NO. 5:12cv24
RICK THALER, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON DISMISSAL OF ABERNATAR, THALER, AND GROUNDS

The Plaintiff Robert Caldwell, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. As Defendants, Caldwell sued Rick Thaler, Director of the Texas Department of Criminal Justice, Correctional Institutions Division; Telford Unit assistant warden Dawn Grounds; Major Roger McDonald; Captain William Gaddis; Officer Dennis Martin; Lt. Shirley Arnold; and counsel substitute Deborah Abernatar.

The Defendants Abernatar, Thaler, and Grounds filed a motion to dismiss the claims against them. On March 6, 2013, the Magistrate Judge issued a Report recommending that this motion be granted and that these Defendants be dismissed as parties to the lawsuit. Caldwell received a copy of this Report on March 12, 2013, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 24) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the motion to dismiss filed by the Defendants Deborah Abernatar, Rick Thaler, and Dawn Grounds (docket no. 14) is hereby GRANTED and these Defendants are hereby DISMISSED as parties to this lawsuit. The dismissal of the claims against these Defendants shall have no effect upon the remainder of the claims and parties in this case.

It is SO ORDERED.

SIGNED this 30th day of April, 2013.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE